



**Written Testimony of Andrew Beal
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**Before the Michigan House Committee on Insurance
Representative Joe Hune, Chair**

**House Bill 5608; the Interstate Insurance Product Regulation
Compact**

Mr. Chair and Members of the Committee:

As you are aware, an interstate compact is a contract between states allowing them to cooperate on multi-state or national issues while letting the compacting states retain control. Although interstate compacts historically have been used to address border disputes and water rights, their use has expanded significantly in recent decades to cover such areas as tax issues, drivers' licensing and vehicle registration, environmental issues, emergency management, juveniles, adult offenders and other issues. According to the Council of State Governments, there are approximately 200 interstate compacts in existence today, and every state belongs to at least 10 compacts.

The compact legislation (HB 5608) under consideration by this Committee is based on a model developed by the National Association of Insurance Commissioners (NAIC) in consultation and collaboration with the National Conference of State Legislatures (NCSL) and the National Conference of Insurance Legislators (NCOIL).

What does this Compact do? The Interstate Insurance Product Regulation Compact creates an interstate commission that is a public entity treated as an instrumentality of the compacting states. The commission provides the states with a vehicle to (1) develop uniform national product standards that will afford a high level of protection to consumers of life insurance, annuities, disability income and long-term care insurance products; (2) establish a central point of filing for these insurance products; and (3) thoroughly review products filings and make regulatory decisions according to the uniform product standards.

The Compact is designed to facilitate transparency and accountability. The activities of the interstate commission will follow the requirements of the Model State Administrative

Procedures Act of 1981, and its meetings are required to be open to the public except in very limited situations. The Compact creates a legislative committee to be comprised of state legislators and also requires notice be provided to state legislatures before any product standards can be adopted. Additionally, the commission must file an annual report with the governor and legislature of each compacting state.

What is the rationale behind the creation of the Compact? There are a number of factors that have influenced the creation of this Compact. Since the early 1990s, state insurance regulators have recognized the need to identify and make improvements in many areas of state insurance regulation. These modernization efforts include a “speed to market” initiative, which focuses on making more efficient the process by which insurance products are reviewed and approved by state insurance regulators. Additionally, for certain insurance products such as life insurance and annuities, state insurance regulators recognize standards for these products do not generally vary greatly from state to state. Hence, these insurance products are more appropriate candidates for national product standards.

Another factor is the increasing scrutiny of insurance regulation at the federal level. The enactment of the Gramm-Leach-Bliley Financial Modernization Act of 1999 directly and indirectly affected many areas of state insurance regulation, with a key emphasis on increased attention to uniformity, harmonization and coordination among the states. There have also been numerous reports issued by the Government Accountability Office, as well as Congressional hearings, covering a broad range of subject matter, focusing on areas where possible enhancements could be made to state insurance regulation. It is no secret some are calling for the creation of a federal insurance regulator.

How are these insurance products regulated now? Currently, insurance companies must seek individual state approval for all product filings, which creates a complicated and timely process for insurers to bring a new product to the market. Where banks can introduce an innovative product like a CD or money-market account in 30 days, and the Securities and Exchange Commission might take 60 days to approve a new securities product, like a mutual fund, receiving approval for a new life insurance or annuity product in all 50 states can take over a year. Moreover, a company may require 30 or 40 versions of the same product to satisfy state-specific requirements.

Driven by evermore-demanding market forces, products have become increasingly sophisticated and their shelf lives have reduced from seven or eight years to two or three years. These factors have increased the workload for the approximately 200 regulators—about 2 percent of the nation's total—who are charged with reviewing and making regulatory decisions on asset-based insurance products. By pooling state resources and expertise, the Compact promises to increase the quality and efficiency of product review.

How do state legislatures participate in the Compact? A state legislature must enact the compact model act through legislation without amendments in order to join the Compact. Relevant state legislative committees will receive written notice of a uniform standard before the Commission may adopt it. The Compact also establishes a legislative

committee of state legislators or their designees to monitor the operations of the Commission and make recommendations to the Commission. State legislatures may opt-out of a uniform standard for any product line at any time through legislation. The Commission also is required to make an annual report, which includes the findings of an independent audit, to the legislature and governor of each member state.

How is the Compact governed? The Compact is governed by a multi-state Commission, which will include one member from each member state. A Management Committee of 14 members will oversee the day-to-day activities of the Compact. The Management Committee will include one member from each of the six largest states by premium volume, four members from mid-sized states, and four members from smaller states by region. Once adopted by all 50 states, Michigan would be a mid-sized state; however, based on the 21 state legislatures that currently have passed the Compact legislation, Michigan would be one of the sixth largest by premium volume and an automatic member of the Management Committee.

How will uniform product standards be developed? The Management Committee will create uniform product standards through the rulemaking process. The Compact requires uniform standards to receive the approval of two-thirds of the Management Committee and two-thirds majority of the full Commission to be adopted. A standard will be effective 90 days after promulgated or at a later date as determined by the Commission.

How may a state opt-out of product standards after it joins? States may opt-out of a uniform product standard in two ways if it does not meet the needs of the state. First, it may enact legislation opting out of any uniform standard at any time for any reason. Second, it may opt-out by regulation following the promulgation of a uniform standard if it meets certain conditions.

How will the Compact raise product standards and consumer protection? Although the Compact does not precondition what standards will be created (except for long-term care insurance, where it promises to raise consumer protections in most states by setting a minimum threshold of protection), it contains several key features designed to promote higher product standards. The most important feature is its voluntary nature. If product standards created by the Compact are not adequate, states will opt-out of the uniform standards and the Compact will not work. A second feature is geographic balance. The six largest Compact States have permanent seats on the Management Committee where uniform standards must originate. Finally, the Compact requires supermajorities of both the Management Committee and Commission to approve uniform product standards.

These features promote a consensus-based approach to decision-making, which promises to produce higher product standards to benefit consumers in exchange for an effective single point of filing with uniform standards that will provide insurers with the "speed to market" they want to compete more effectively. In fact, a working group of state insurance regulators has been working for two years to draft proposed product standards for the Compact Commission to consider once it becomes operational. The group has

produced 39 draft product standards, which fulfill the Compact's promise of higher standards of consumer protection.

How was the Compact model law developed? Insurance commissioners developed the Compact model act through an extensive, deliberative process that included active participation from state legislators, attorneys general, industry and consumers. In fact, the Compact model is only the third model act endorsed by the National Conference of State Legislatures (NCSL) and the only model act ever endorsed by both NCSL and the National Conference of Insurance Legislators (NCOIL).

NCSL and NCOIL took these historic actions after being directly involved in the formation and structure of the Compact at each stage of its development. Throughout the NAIC process in 2002, a special NCSL/NCOIL task force recommended the structure of the management committee and the supermajority requirement from both the management committee and the full Commission to adopt uniform national products standards.

After the NAIC initially adopted the model act in December 2002, the NCSL/NCOIL task force recommended a number of important amendments that addressed legislative concerns. These amendments clarified that the Compact is an instrumentality of the states and not a private entity; provided for open meetings and public inspection of Commission records; required the creation of a code of ethics for Commission Members and employees; and protected state authority to oversee and enforce insurance company market conduct. The legislative task force also took the lead to work with state attorneys general to draft language that effectively clarified the Compact in no way limits attorneys' general authority to enforce general consumer protection laws, including unfair and deceptive trade practices laws. The NAIC incorporated all amendments recommended by the special legislative task force, and both NCSL and NCOIL adopted separate resolutions to endorse the Compact in July 2003.

What is the current status of this Compact? Although the Compact actually came into existence in 2004 when the first two states, Colorado and Utah, enacted the compact model act, it does not become operational until 26 states or states representing 40 percent of the premium volume for life insurance, annuities, disability income and long-term care insurance join the Compact. As of today, the following 21 jurisdictions, representing a combined 30 percent of the premium volume, have enacted the Compact: Colorado, Hawaii, Idaho, Indiana, Iowa, Kansas, Maine, Maryland, Nebraska, New Hampshire, North Carolina, Pennsylvania, Puerto Rico, Rhode Island, Texas, Utah, Vermont, Virginia, Washington, West Virginia and Wyoming.

Additionally, Compact legislation has been passed this year by one chamber in the states of Alabama, Georgia, Kentucky and Oklahoma. Legislative introductions have occurred or are anticipated this year in Alaska, Connecticut, Delaware, District of Columbia, Florida, Illinois, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New Mexico, New York, Ohio, and Wisconsin. The Compact is expected to become operational in 2006.

Conclusion

The Interstate Insurance Product Regulation Compact represents a very important initiative that will benefit state insurance regulators, consumers and the insurance industry. It will make state insurance regulation more efficient and effective in an ever-changing marketplace while maintaining and enhancing protections for consumers. Although states will work jointly to develop strong product standards, individual states will continue to monitor these products in their respective states and take appropriate enforcement action as they deem necessary. The Compact will allow consumers to get access to more competitive insurance products more quickly, without restricting their remedies against insurers. Finally, insurance companies will be able to make their product filings at a central point, thus avoiding duplicate filing procedures and allowing them to get competitive products into the marketplace without unnecessary delay.